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| 10/645,983      | 08/22/2003  | Paul J. Hanslick     | 43744-001US1 (183259) | 8628             |

23973 7590 08/08/2005

DRINKER BIDDLE & REATH  
ATTN: INTELLECTUAL PROPERTY GROUP  
ONE LOGAN SQUARE  
18TH AND CHERRY STREETS  
PHILADELPHIA, PA 19103-6996

EXAMINER

JOHNSON, STEPHEN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3641

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/645,983

Applicant(s)

HANSLICK ET AL.

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 4 and 5, use of the phrase “the gas vents” makes the claims indefinite as to which of the previously claimed gas vents (first gas vents or second gas vents) is intended. In claim 13, the phrase “a second end” should be claimed as (said second end) if the previously claimed second end (claim 8, line 5) is intended. In claim 16, how is the claimed “a gas vent disposed at an angle of thirty degrees” intended to relate to the previously claimed “at least one of said at least of said one slot gas vent nearest a second end of the tubular body has an angle that is non-parallel”?

In claim 14, the phrase “at least one slot gas vent” makes the claim indefinite because applicant later claims both at least one gas vent near the first end and at least one gas slot near a second end. This could be clearly claimed as (at least two slot gas vents). In claim 22, how is the claimed “the gas vents” intended to relate to the previously claimed ‘a first gas vent’ (see claim 20)? In claim 23, how is the claimed “a gas vent disposed at thirty-degrees” intended to relate to the previously claimed ‘a second gas vent’ (see claim 20)?

In claims 1, 8, 14, 20, and 25, applicant claims “an attachment flange connected to the first end” and “a gas regulator threadedly engaged with the second end”. Note that the attachment flange is in fact directly connected to the second end and that the gas regulator is threadedly engaged with the first end (see figs. 3, 4, and 5).

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 8-11, 20-21, and 24-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Cave (942).

Cave (942) discloses a muzzle stabilizer comprising:

- |  |                     |
|--|---------------------|
| a) a tubular body;   | 11 (forward of 23)  |
| b) a first perpendicular gas vent;                                       | 31, 32              |
| c) a second non-parallel angled vent;                                    | 17, 18, 19          |
| d) an attachment flange;   | 11 (rearward of 23) |
| e) a coupler;  | 14                  |
| f) a coupler on the end of the barrel;                                   | 15                  |
| g) a first expansion chamber;  | 12                  |
| h) a second expansion chamber;   | 30                  |
| i) a gas regulator;  | 9                   |
| j) a driving surface for effecting rotation of the gas<br>regulator; and | 50                  |
| k) an adjustment tool.   | col. 4, lines 1-2   |

4. Applicant's arguments are addressed as follows. It is argued that Cave is not directed to a rapid fire repeating firearm. In response, note that claim 8 claims "adapted to be attached to the end of a rapid-fire repeating firearm". As such, there is no requirement that a rapid-fire repeating firearm even be present. Further, Cave specifically recites usage with a pistol (see col. 1, line 18). The vast majority of pistols are semi-automatic firearms. As such, pistols qualify as a

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“rapid-fire repeating firearm”. Applicant further argues that the first set of vents nearest the muzzle are angled and that the second set of vents farthest from the muzzle are orthogonal. This is accurate. It is also the same arrangement disclosed by applicant (see figs. 1, 3, and 4).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cave (942) in view of Davies.

Cave (942) applies as previously recited. However, undisclosed is a thread pattern for attaching muzzle elements of at least 24 threads per inch. Davies teaches a thread pattern for attaching muzzle elements of at least 24 threads per inch (col. 7, lines 21-29). Applicant is substituting one thread pattern for another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Davies to the Cave muzzle stabilizer and have a muzzle stabilizer with a different thread pattern.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cave (942) in view of Davies as applied to claims 1-4 and 13 above, and further in view of Rose (200), Tripp, or Chahin.

Cave (942) and Davies apply as previously recited. However, undisclosed is a gas vent angled at 30 degrees. Rose (200) (claim 27); Tripp (fig. 2); and Chahin (col. 5, lines 11-15) each teach a gas vent angled at 30 degrees. Applicant is substituting one vent angle for another in an

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analogous art setting as explicitly encouraged by both Tripp (see col. 6, lines 12-15) and Chahin (col. 5, lines 11-15). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Rose, or Tripp, or Chahin to the Cave in view of Davies muzzle stabilizer and have a muzzle stabilizer with a particular vent angle.

8. Claims 20-21 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Garriss et al. (333).

Garriss et al. (333) disclose a muzzle stabilizer comprising:

- |  |                 |
|--|-----------------|
| a) a tubular body;                         | 10              |
| b) a first perpendicular gas vent;         | 34              |
| c) a second non-parallel angled vent;      | 36              |
| d) an attachment flange;                   | 26              |
| e) a coupler;                              | 26, 28          |
| f) a coupler on the end of the barrel;     | 20              |
| g) an expansion chamber;                   | inside 10       |
| h) a gas regulator;                        | 12              |
| i) a spring indent;                        | 70, 71          |
| j) circumferential arranged index grooves; | 72              |
| k) a driving surface; and                  | 54              |
| l) an adjusting tool.                      | col. 8, line 34 |

9. Claims 1-2 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garriss (333) et al. in view of Davies.

Garriss et al. (333) apply as previously recited. However, undisclosed is a thread pattern

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For attaching muzzle elements of at least 24 threads per inch. Davies teaches a thread pattern for attaching muzzle elements of at least 24 threads per inch (col. 7, lines 21-29). Applicant is substituting one thread pattern for another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Davies to the Garris et al. muzzle stabilizer and have a muzzle stabilizer with a different thread pattern.

10. Claims 7, 12, and 22-23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Claims 14-19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

12. Applicant's arguments filed on 5/23/2005 have been fully considered but they are not persuasive. These arguments have been addressed in the preceding paragraphs of this Office action.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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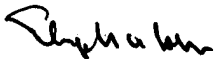
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877.

The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.



**STEPHEN M. JOHNSON**  
**PRIMARY EXAMINER**

Stephen M. Johnson  
Primary Examiner  
Art Unit 3641

SMJ

August 3, 2005